



# HOUSE OF REPRESENTATIVES

HB 2586

dependency; households; felony reports

Prime Sponsor: Representative Brophy McGee, et al., LD 28

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**DPA** Committee on Children and Family Affairs

**DPA** Caucus and COW

**X** House Engrossed

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## OVERVIEW

HB 2586 requires the Department of Child Safety (DCS) to adopt rules relating to and establishes requirements regarding the return of a child to a home in situations in which a person in the home or with access to the child has been arrested for, charged with or convicted of a felony offense that involved conduct that poses an imminent threat to a child.

## PROVISIONS

1. Requires a DCS investigator, before returning a child or within 10 days of the return of a child pursuant to a court order, to conduct a criminal background check of any member of the household to which the child will be returned or any person who has access to the home and unsupervised access to the child on a regular basis, if the investigator has credible information or a reasonable suspicion that the member or person has been arrested for, charged with or convicted of an offense that involved conduct that poses an imminent threat of danger to a child.
2. Requires the Department of Child Safety (DCS) to adopt rules regarding the return of a child after a determination of dependency that include:
  - a. A requirement that DCS conduct a criminal background check of any member of the household to which the child will be returned, of any person who has access to the home and unsupervised access to the child on a regular basis and of a biological parent of the child whose parental rights have not been terminated, if DCS has credible information or a reasonable suspicion that the member, person or parent has been arrested for, charged with or convicted of an offense described below; and
  - b. Unless the child is returned home pursuant to a court order, if any criminal background check performed indicates that a person has been arrested for, charged with or convicted of a felony offense that involved conduct that poses an imminent threat of danger to the child, a requirement that the child not be returned if there is significant evidence that the alleged or convicted perpetrator's imminent threat to children cannot be reasonably mitigated by planning and action taken by DCS in partnership with the non-offending parent, familial resources or providers. The imminent threat of danger shall:
    - i. Be determined based on the alleged or convicted perpetrator's pattern of behavior, the difficulty in controlling this behavior and the alleged or convicted perpetrator's violence against or threats to a partner or child, or both; and
    - ii. Not be based on the residence, location or relationship status of the alleged or convicted perpetrator.
3. Stipulates that in determining the existence of an imminent threat, DCS must consider:

- a. The nature of the felony offense, the relative time frame of the occurrence, the alleged or convicted perpetrator's history of behavior and any other relevant factors involved in the offense, including the protective capacity of the non-offending parent; and
  - b. Information provided by the foster family, the guardian ad litem, a domestic violence victim advocate, a service provider or any other person deemed necessary and with knowledge of the felony offense or the family.
4. Requires that while a case remains open, the child's parent, guardian or custodian who is seeking the return of the child to the child's home or to whom a child has been returned must notify DCS of:
  - a. Any changes in the household members or persons who have access to home on a continual basis; and
  - b. If, to the knowledge of the child's parent, guardian or custodian, any member of the child's household, a biological parent whose parental rights have not been terminated or any person who has access to the home and unsupervised access to the child on a regular basis is arrested for, charged with or convicted of a felony offense that involved conduct that poses an imminent threat of danger to the child. The inability of a parent, guardian or custodian who is seeking the return of the child to provide this information is not a bar to the child being returned to the parent, guardian or custodian if there is no imminent threat of danger to the child in being returned.
5. A person who knowingly violates the provisions noted above is guilty of a petty offense.
6. Defines *domestic violence victim advocate*

**CURRENT LAW**

A.R.S. § 8-841 allows any interested party to file a petition to commence proceedings in a juvenile court alleging that the child is a dependent. Statute requires the court to set the initial dependency hearing within 21 days after the petition is filed and states that the court's primary consideration in any dependency hearing must be the protection of the child from abuse or neglect (A.R.S. §§ 8-842 and 8-843). After receiving and considering the evidence, the court awards dependency to the child's parents, family members, a suitable institution, or other statutorily approved parties (A.R.S. § 8-845).